

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

TERRY JAMES CHIDESTER, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 5:06-cv-00174

LISA FRYE, et al.,

Defendants.

MEMORANDUM OPINION

Pending before the Court are Defendants' Motions to Dismiss [Dockets 34 and 36] and Plaintiff's Motion to Dismiss [Docket 42]. By Standing Order entered on July 21, 2004, and filed in this case on March 8, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 45] on January 22, 2009, recommending that this Court **GRANT** Defendant's motions to dismiss and **DENY** Plaintiff's motion to dismiss.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de

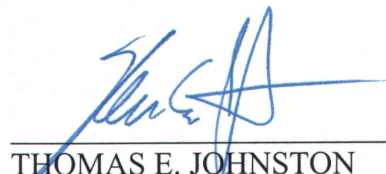
novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due in this case by September 9, 2008. To date, no objections have been filed.

Accordingly the Court **ADOPTS** the PF&R [Docket 45] in its entirety, **GRANTS** Defendants’ Motions to Dismiss [Dockets 34 and 36], **DENIES** Plaintiff’s Motion to Dismiss [Docket 42], and **DISMISSES** Plaintiff’s Complaint [Docket 1] and Amended Complaint [Docket 14]. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 10, 2009



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE